

**Introduced by Senator Battin**

February 21, 2002

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An act to amend Section 23550.5 of the Vehicle Code, relating to driving under the influence.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1757, as introduced, Battin. Driving under the influence.

Under existing law, a conviction for driving under the influence, or driving under the influence causing injury, may be punished as a felony under specified circumstances. These offenses may be charged as felonies if they occur within 10 years of a prior conviction for either offense which was punished as a felony, or within 10 years of a conviction for vehicular manslaughter with gross negligence which was punished as a felony.

This bill would specify that prior convictions that were punished as felonies, for purposes of this section, include those reduced to misdemeanors after sentencing. This would expand scope of the felony provisions proscribing driving under the influence.

By increasing the number of felonies which could be charged, thereby increasing the number of preliminary examinations and other prosecution costs, and in certain circumstances increasing the amount of time a defendant could be given in county jail and the duration of probation, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.



Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 23550.5 of the Vehicle Code is amended  
2 to read:  
3 23550.5. (a) A person is guilty of a public offense,  
4 punishable by imprisonment in the state prison or confinement in  
5 a county jail for not more than one year and by a fine of not less  
6 than three hundred ninety dollars (\$390) nor more than one  
7 thousand dollars (\$1,000) if that person is convicted of a violation  
8 of Section 23152 or 23153, and the offense occurred within 10  
9 years of any of the following:  
10 (1) A prior violation of Section 23152 that was punished as a  
11 felony under Section 23550 or this section, or both, or under  
12 former Section 23175 or former Section 23175.5, or both.  
13 (2) A prior violation of Section 23153 that was punished as a  
14 felony.  
15 (3) A prior violation of paragraph (1) of subdivision (c) of  
16 Section 192 of the Penal Code that was punished as a felony.  
17 (4) *For purposes of this section, “a prior violation that was*  
18 *punished as a felony” shall include a violation that was initially*  
19 *sentenced as a felony, but was subsequently reduced to a*  
20 *misdemeanor.*  
21 (b) Every person who, having previously been convicted of a  
22 violation of Section 191.5 of the Penal Code or a felony violation  
23 of paragraph (3) of subdivision (c) of Section 192 of the Penal  
24 Code, is subsequently convicted of a violation of Section 23152 or  
25 23153 is guilty of a public offense punishable by imprisonment in  
26 the state prison or confinement in a county jail for not more than  
27 one year and by a fine of not less than three hundred ninety dollars  
28 (\$390) nor more than one thousand dollars (\$1,000).  
29 (c) The privilege to operate a motor vehicle of a person  
30 convicted of a violation that is punishable under subdivision (a) or  
31 (b) shall be revoked by the department under paragraph (7) of  
32 subdivision (a) of Section 13352, unless paragraph (6) of  
33 subdivision (a) of Section 13352 is also applicable, in which case  
34 the privilege shall be revoked under that provision.



1 (d) Any person convicted of a violation of Section 23152 that  
2 is punishable under this section shall be designated an habitual  
3 traffic offender for a period of three years, subsequent to the  
4 conviction. The person shall be advised of this designation under  
5 subdivision (b) of Section 13350.

6 SEC. 2. No reimbursement is required by this act pursuant to  
7 Section 6 of Article XIII B of the California Constitution because  
8 the only costs that may be incurred by a local agency or school  
9 district will be incurred because this act creates a new crime or  
10 infraction, eliminates a crime or infraction, or changes the penalty  
11 for a crime or infraction, within the meaning of Section 17556 of  
12 the Government Code, or changes the definition of a crime within  
13 the meaning of Section 6 of Article XIII B of the California  
14 Constitution.

